

DRAFT

EXECUTIVE ORDER

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**Occupational Safety and Health Programs
for Federal Employees**

The Federal Government, as the largest employer in the United States, has a special obligation to set an example for the Nation by providing safe and healthful employment and places of employment for its employees.

For more than seven years, the Federal Government has been seeking to carry out this obligation under the terms of two Executive Orders (11612 issued in 1971 and its successor 11807 issued in 1974). Both Orders were based upon the authority of the President as Chief Executive and were issued to further the purposes and the implementation of the comprehensive Occupational Safety and Health Act of 1970 as well as section 7902(c) of title 5, United States Code.

Progress has been made since the enactment of the Occupational Safety and Health Act of 1970 but it has been limited and sporadic. Too many agencies have made only minimal efforts to provide safe and healthful workplaces even though the increased knowledge of health hazards and the need for their control make it clear that additional effort will be necessary. This new Order is being issued to reflect our firm commitment to making public service in the Federal Government a safe and healthful occupation for our civilian and military personnel.

The provisions of this Order are intended to ensure that agency heads manage their operations in a manner that provides their employees safe and healthful employment and places of employment, and to ensure that agency heads are provided with the direction and assistance on methods, procedures and technical considerations necessary to manage in this manner. I expect agency heads and all management officials, consistent with this Order and the management improvement provisions of the Civil Service Reform Act of 1978, to take safety and health needs into account when formulating management policy, and in particular any recommendations of the Secretary of Labor. I expect the Secretary of Labor, consistent with this Order, to provide the impetus for renewed agency efforts, working with the Federal Advisory Council on Occupational Safety and Health, the Administrator of the General Services Administration and the Executive Office of the President. I also expect all employees and their representatives to actively participate in these efforts, consistent with this Order and other labor relations policies.

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NOW, THEREFORE, by virtue of the authority vested in me as President of the United States and Chief Executive; and also in order to carry out the provisions of section 14 of the Occupational Safety and Health Act and the provisions of section 7902 (c)(1) of title 5 of the United States Code, it is hereby ordered as follows:

Scope of This Order

SECTION 1. This Order applies to all agencies of the Executive Branch of the Government. For the Purposes of this Order, the term "agency" means an Executive Department, as defined in 5 U.S.C. 101, or any employing unit or authority of the Executive Branch not within an Executive Department. In addition, since the Occupational Safety and Health Act ("the Act") covers all Federal employees, the Secretary of Labor ("the Secretary") shall cooperate and consult with the heads of agencies in the Legislative and Judicial Branches of the Government to aid them in adopting safety and health programs consistent with those of agencies to which this Order is applicable. This Order covers all employees of covered agencies, both civilian and military, consistent with the purpose of the Act to provide comprehensive protection to all employees in the Nation; but the Secretary shall postpone the exercise of his authority under this Order during the conduct of military maneuvers and similar military activities.

Duties of Heads of Agencies

SECTION 2. The head of each agency, after consultation with the representatives of the employees thereof, shall:

(1) Establish, maintain and implement an occupational safety and health program in accordance with the requirements of this Order and the mandatory regulations of the Secretary issued pursuant thereto, and furnish to employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to employees.

(2) Designate or appoint, to be responsible for the management and administration of the agency occupational safety and health program, an agency official with sufficient authority to represent effectively the interest and support of the agency head.

(3) Require budgetary identification for the agency's occupational safety and health program with a plan for distribution of the resources throughout all levels of the agency. Indicate resources for the program as a separate item in budget presentations to OMB.

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management information system, which shall include the maintenance of such records of occupational accidents, injuries, illnesses and their causes, and the compilation and transmittal of such reports based upon this information, as the Secretary may require pursuant to section 3 of the Order.

(5) Comply with all applicable standards issued under Section 6 of the Act, except where, pursuant to procedures and standards similar to those provided for private sector employers under that section of the Act regarding temporary or permanent variances, the Secretary approves compliance with alternate standards. In addition, agency heads are encouraged to adopt standards to protect employees from hazards not covered by Section 6 standards.

(6) Assure prompt attention to reports by employees or others of unsafe or unhealthful working conditions and assure prompt abatement of any unsafe or unhealthful working conditions discovered through this or any other means, including those conditions involving facilities and/or equipment furnished by another Government agency, informing the Secretary of significant difficulties encountered in this regard.

(7) Ensure that needed safeguards are included in the agency occupational safety and health program to ensure that no employee is subject to restraint, interference, coercion, discrimination or reprisal by virtue of such employee's participation in the agency occupational safety and health program, including the filing of a report of an unsafe or unhealthful working condition, the initiation of any proceeding under or related to this program, participation by comment or testimony in such proceeding, or the exercise by such employee on his or her own behalf or that of others of any other right afforded by section 19 of the Act; this Order or the Secretary's regulations.

(8) Assure periodic inspections of agency workplaces by personnel with sufficient technical competence to recognize unsafe and unhealthful working conditions in such workplaces; and assure prompt abatement of unsafe or unhealthful working conditions discovered through this means, including those involving facilities and/or equipment furnished by another Government agency, informing the Secretary of significant difficulties encountered in this regard.

(9) Provide adequate safety and health training for officials at the different management levels, including supervisory employees, employees responsible for conducting occupa-

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tional safety and health inspections, and other employees. Such training shall include dissemination of information concerning the operation of the agency occupational safety and health program and the means by which each such person may participate and assist in the operation of that program.

(10) Submit to the Secretary on an annual basis a report containing such information as the Secretary shall prescribe.

(11) Cooperate with and assist the Secretary in the performance of his duties under section 19 of the Act and sections 3 and 4 of this Order.

Duties of the Secretary of Labor

SECTION 3. The Secretary shall:

(1) Maintain a liason with the Executive Office of the President in matters relating to this Order, and provide leadership and guidance to the heads of agencies to assist them in fulfilling their occupational safety and health responsibilities.

(2) Issue detailed and flexible regulations to assist agencies in establishing and operating effective occupational safety and health programs appropriate to their individual missions, sizes, and organizations. Such regulations shall reflect the requirement of section 19 of the Act for consultation with employee representatives.

(3) Prescribe recordkeeping and reporting requirements to enable agencies to assist the Secretary in meeting the requirements imposed upon him by section 19(b) and section 24 of the Act.

(4) Provide leadership and guidance to agencies in the occupational safety and health training of their personnel. Assist agencies in complying with their duties under section 2(9) of this Order by conducting training for the agencies where the Secretary deems necessary and appropriate, upon request and reimbursement for the expenses incurred.

(5) Facilitate the exchange of ideas and information throughout the Government with respect to matters of occupational safety and health through such arrangements as the Secretary deems appropriate, including but not limited to, the establishment and continuance of Field Federal Safety and Health Councils.

(6) Provide technical services to agencies, where the Secretary deems necessary and appropriate, to study the causes of accidents, injuries and illnesses, to identify specific unsafe or unhealthful working conditions, and to

evaluate the effectiveness of agency safety and health programs of agencies, and submit to the President reports of such evaluations (or summaries of the reports), together with agency responses thereto. These evaluations shall be conducted at least once annually for all or selected portions of the larger, more hazardous agencies, and as the Secretary deems appropriate for all other agencies, through such headquarters or field reviews as the Secretary deems necessary.

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(7) Evaluate the occupational safety and health programs of agencies, and submit to the President reports of such evaluations (or summaries of the reports), together with agency responses thereto. These evaluations shall be conducted at least once annually for all or selected portions of the larger, more hazardous agencies, and as the Secretary deems appropriate for all other agencies, through such headquarters or field reviews as the Secretary deems necessary.

(8) Submit to the President each year a summary report of the status of the Federal agency occupational safety and health program, as well as analyses of individual agency progress and problems in correcting unsafe and unhealthful working conditions, together with recommendations for improving their performance.

Authority of the Secretary of Labor

SECTION 4. In carrying out his responsibilities under section 19 of the Act and section 3 of this Order, the Secretary is authorized:

(1) To enter without advance notice or delay and at reasonable times any factory, plant, establishment, construction site, or other area, workplace or environment of an agency where work is performed by an employee of an agency.

(2) To inspect and investigate during regular working hours and at other reasonable times, and within reasonable limits and in a reasonable manner, any place of employment of an agency and all pertinent conditions, structures, machines, apparatus, devices, equipment, and materials therein, and to question privately any employee or employee representative. Subject to regulations issued by the Secretary, a representative of the employer and a representative(s) authorized by his employees shall be given an opportunity to accompany the Secretary or his designee during such an inspection. Where there is no authorized employee representative, the Secretary or his designee shall consult with a reasonable number of employees concerning matters of health and safety in the workplace.

investigate any allegation by an employee covered by this Order or by a representative of such employees of the existence of a workplace hazard or that the agency is not meeting its responsibilities under this Order or as contained in the regulations published pursuant to section 3 of this Order. This provision shall not apply to uniformed members of the Armed Forces on active duty status.

(4) To prescribe such rules and regulations as he may deem necessary to carry out his responsibilities under this section, including regulations dealing with the manner in which inspections and investigations authorized under this section are to be conducted.

Federal Advisory Council on Occupational Safety and Health

SECTION 5(1) The Federal Advisory Council on Occupational Safety and Health, established pursuant to Executive Order 11612, is hereby continued. It shall advise the Secretary in carrying out responsibilities under the Order. The Council shall consist of sixteen members appointed by the Secretary and shall include, eight representatives of Federal agencies and eight representatives of labor organizations representing Federal employees. The members shall serve for three-year terms with the terms of five or six members expiring each year, provided that this Council is renewed every two years in accordance with the Federal Advisory Committee Act. The members currently serving on the Council shall be deemed to be its initial members under this Order and their terms shall expire in accordance with the terms of their appointment.

(2) The Secretary, or a designee, shall serve as the Chairperson of the Council, and shall prescribe such rules for the conduct of its business as deemed necessary and appropriate.

(3) The Secretary shall make available necessary office space and furnish the Council necessary equipment, supplies, and staff services, and shall perform such functions with respect of the Council as may be required by the Federal Advisory Committee Act.

Effect on Other Powers and Duties

SECTION 6. Nothing in this order shall be construed to impair or alter the powers and duties of the Secretary or heads of other Federal agencies pursuant to section 19 of the Occupational Safety and Health Act of 1970, Chapter 71 of

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title 5 of the United States Code as amended by the Civil Service Reform Act of 1978, 7901, 7902, and 7903 of title 5 of the United States Code, or any other provision of law, nor shall it be construed to alter any other provisions of law or Executive Order providing for collective bargaining agreements and procedures. Matters of official leave for employee representatives involved in activities pursuant to this order shall be determined between each agency and these representatives pursuant to the procedures under section 7131 of title 5 of the United States Code or applicable collective bargaining agreement.

Termination of Existing Order.

SECTION 7. Executive Order No. 11807 of September 28, 1974 is hereby superseded.

The White House